

To,  
Hon'ble Minister Shri Ravi Shankar Prasad,  
Ministry of Law and Justice,  
Ministry of Electronics & Information Technology,  
21, Mother Teresa Crescent,  
New Delhi - 110 011  
([ravis@sansad.nic.in](mailto:ravis@sansad.nic.in))

September 23, 2020

Dear Hon'ble Minister,

Re: Publication of Updated, Authoritative and Consolidated Laws and Subordinate Legislation Online

I am an advocate based in Bengaluru, India, working with the law firm Nishith Desai Associates, and write on behalf of myself and various organisations (including the Bar Association of India, Delhi High Court Bar Association, and Society of Indian Law Firms), senior advocates, legal academicians, law firm leaders, advocates, law students, and members of the general public, on a matter of public interest.

The Central Government has done a commendable job in completely digitizing the publication of laws through the Gazette of India ([egazette.nic.in](http://egazette.nic.in)) and India Code ([indiacode.nic.in](http://indiacode.nic.in)), which are moving towards making laws accessible to the public.

However, we write to inform you about a pressing need among the legal community, the general public, and corporate India in this connection. We are aware that you are an eminent lawyer and jurist in your right and well suited to consider the following anomaly. We have noticed over a period of time that while various efforts have been made by the Government, there is currently no authoritative, up-to-date source which the general public can refer to when trying to find the latest, amended version of a law. The laws (particularly subordinate legislation and State laws) are invariably made available in a piecemeal and not consolidated fashion (the amendments are not incorporated into the principal law), many of the amendments and principal laws are difficult to locate, and much of the subordinate legislation is not published in the Official Gazette.

While the portal ‘India Code’ is a good step forward, we have noticed various errors and omissions on the same, as mentioned in the enclosed ***Detailed Statement***. Importantly, the portal contains a *disclaimer* against accuracy, which, together with the said errors, means that the public cannot rely on the site. Private legal publishers too carry such a disclaimer, leaving the citizen running from pillar to post to find the latest law. Further, many may not be able to afford the costs associated with private legal publishers (i.e., heavy subscription costs and constantly purchasing updated book editions) given the volume of laws and frequency of amendments.

Today, the pace of amendments and notifications is exceptionally high, as the pace of life has quickened. To illustrate, since January 1, 2018 to September 20, 2020, there have been nearly 20,000 gazette notifications by the Central Government and Delhi Government, and our research indicates that this is nearly triple the volume as compared to the same period between 2000 and 2002.

The existing state of affairs has resulted in both judicial and administrative errors, as mentioned in the enclosed ***Detailed Statement***, where authorities have actually proceeded on pre-amended / outdated versions of laws in several instances. Besides, there is a huge expenditure of time and effort for the citizen, and even the legal professional, to merely ascertain the law and refer to a consolidated version.

With ignorance of law not being an excuse, various Courts have held that the Government must take it upon itself to publish the law electronically in an updated, consolidated and reliable fashion. This would be in step with the citizens’ fundamental ‘right to know’ under the Constitution of India, and the ‘Digital India’ mission of the Government, would greatly promote the ease of doing business in the country, and would foster better compliance with law. Leading common law jurisdictions like the U.K., Australia, New Zealand and Singapore already have such portals and their examples are cited in the enclosed ***Detailed Statement***.

In addition, with virtual Court hearings becoming a phenomenon here to stay, reliable, up-to-date, and as-amended laws become a must for the reference of counsel and Courts.

This letter proposes various solutions to remedy the existing shortcomings in the current manner of publishing laws in India. Specifically, we request you to consider and implement the following:

- a. The Central Government should introduce a policy containing the following instructions to all departments:
  - i. All legislation and legally binding subordinate legislation (including orders, circulars, etc.) must be published in the Official Gazette and not merely uploaded on the departmental website, so that the public is made adequately aware of all changes to law by referring to a single source;
  - ii. Whenever any amendment is introduced, the consolidated, as-amended version of the law should be annexed to the amendment and India Code should be updated with the as-amended version in a timely manner, so that the public is made aware of the consolidated and updated law as of date; and,
  - iii. As soon as a particular version of a law on a department's website becomes out of date, it should be taken down or appropriately dated so that the public is not misled.
- b. An advisory should be issued to the State governments to the same effect.
- c. The India Code portal and the E-Gazette portal should have a facility where interested members of the public can request daily, weekly or monthly updates on Central laws on a subject-wise or Ministry-wise basis, by email, SMS, Whatsapp etc. An advisory should be issued to the State governments to the same effect as regards State laws.
- d. The disclaimers on the India Code portal must be removed so that the portal becomes a reliable and authentic source of information.
- e. The errors and omissions on the India Code portal should be corrected, and all laws (including subordinate legislations) on India Code must be published in their as-amended versions. A communication should be sent to all Central and State government departments to provide updated material to the portal on a real-time basis, and ensure that the information is always up-to-date.
- f. The Ministry may consider adopting the U.N.-approved 'Akoma Ntoso' standard or any other comparable standard for the publication of laws on India Code. A '360 degree' view of any Act or subordinate legislation should be implemented, whereby the text in force as of any particular date can easily be viewed, since practitioners often have to refer to the law as it stood in the past.

We request you as a lawyer of great eminence who will be aware of the importance of the rule of law, governance under the Constitution, knowledge of law, and transparency and accountability in respect of the existing laws of the land (including all the preceding

amendments since they would be necessary both for awareness as well as for adjudication), to take all necessary steps and consider these suggestions to ensure that a proper system in line with the Constitutional mandate and at par with other jurisdictions is immediately effect in India.

We hope you will be able to consider this representation and inform us of a path forward as soon as practicable. We would be much obliged if we could have a virtual meeting with you to explain this further. We are very confident that you will intervene in the matter. We are prepared to assist any set of officers you consider appropriate and we would lend all assistance in ensuring a proper design is laid out.

The ***Detailed Statement*** is enclosed. We appreciate your time, attention, and co-operation.

Thanking you,

Sincerely,

Jaideep Reddy

Advocate (KAR/2077/13)

Leader, Technology Law, Nishith Desai Associates

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*Endorsed by:*

The Bar Association of India (est. 1960), a voluntary body representing the All India Bar  
Delhi High Court Bar Association, a voluntary body representing the Delhi High Court Bar  
Society of Indian Law Firms, the apex body of law firms in India

Student Bar Association, National Law School of India University, Bengaluru

Student Juridical Association, The West Bengal National University of Juridical Sciences,  
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Dr. Sridhar Acharyulu, *former Commissioner, Central Information Commission; Acting Dean,  
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Mr. Devansh Jain, *Software Engineer*

Ms. Sreerupa Chowdhury, *Entrepreneur*

A full list of signatories has been appended to the end of this letter.

*Encl:* (1) Detailed Statement; (2) Full list of signatories.

*Carbon Copy:*

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**Detailed Statement Regarding the Publication of Updated, Authoritative and Consolidated Laws and Subordinate Legislation Online<sup>1</sup>**

**Background**

*High pace of lawmaking and amendments*

With the pace of amendments to laws, particularly rules, regulations, notifications, orders and circulars (subordinate legislation) being high, it is becoming difficult for the general public and the legal community to find the latest, consolidated, authoritative version of a particular law.

Rules and regulations under laws such as the Income Tax Act, 1961, Companies Act, 2013, Foreign Exchange Management Act, 1999, indirect tax laws, labour laws, and State and municipal laws are frequently amended, often several times a month. For instance, the Income Tax Rules, 1962, which are of wide import, appear to have been amended 110 times since 2016. Likewise, the Central Goods and Services Tax Rules, 2017 have been amended more than 45 times since their introduction in 2017. Besides amendments, there are a variety of notifications which have the effect of changing the legal position, such as notifications bringing particular provisions into force. For instance, the Ministry of Finance issued 587 notifications in the Gazette of India in 2019, and the Ministry of Law and Justice issued 145 such notifications in 2019. Unlike perhaps in the past, the pace of amendments and notifications today is exceptionally high. As mentioned in the covering letter, our research indicates that the pace of lawmaking has approximately tripled over the past 20 years, which makes the time now ripe for change. Special situations like COVID-19 and demonetization too lead to multiple amendments a month. For instance, the Central Government itself has issued more than 900 notifications on measures related to COVID-19, and State governments have issued over 6,000 notifications on the subject (as of September 20, 2020). Currently, private organisations are compiling these materials out of goodwill.<sup>2</sup>

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<sup>1</sup> Facts current as of September 20, 2020.

<sup>2</sup> For instance, a useful resource in the public interest has been made available by PRS Legislative Research: <https://prsindia.org/covid-19/notifications>.



### *Difficulty with the status quo*

Significantly, amendments are always published separately and the latest, consolidated (as-amended) versions of many of these subordinate legislations and State laws are unavailable in the public domain. Further, individual notifications of many subordinate legislations and State laws (and amendments thereto) are often difficult to locate and not published in the relevant Official Gazette. We noticed, with special reference to the COVID-19 situation, that individual departments are publishing laws on their own websites in an unsystematic manner and piecemeal manner.

The legal industry so far has relied on private publishers. However, with this rapid pace of subordinate legislation and amendments, published books are unable to keep up to date. Online paid databases too, besides being expensive and inaccessible to many, are often not up to date with subordinate legislation and State laws. Besides, private publishers carry a prominent *disclaimer* of accuracy, putting the burden on the citizen to verify the contents of a law.

The citizen is hence left on her own to verify the latest position of law, often with respect to laws which have undergone tens or hundreds of amendments since their introduction. This becomes a significant burden, particularly when dealing with subordinate legislation and State laws.

Often, lawyers and members of the public are compelled to manually find every single notification (many of which are not easily accessible in the public domain) of amendments to a particular Act or subordinate legislation and piece together the law word by word. This is because there is no ‘single source of truth’ or authoritative, up-to-date repository of as-amended laws (we have commented on India Code subsequently). We have heard anecdotal evidence of public officials marking-up by hand their physical copies of laws with the amendments inline. While a few authorities like the Securities and Exchange Board of India, the Insolvency and Bankruptcy Board of India and the Income Tax Department do publish as-amended versions of laws on their websites, this is done in an *ad hoc* manner and is not systematized across departments. There is a need for all laws in the country to be similarly made available. Further, even some of these departmental websites have disclaimers, which puts the burden on the citizen to verify the information.

## **Real problems which arise for the rule of law and administration of justice**

These issues are not fictional or fanciful and pose real concern to the rule of law, administration of justice and the citizens' fundamental right to know under Article 19(1)(a) of the Constitution of India.

As an illustration, there are various Supreme Court and High Court judgments which have been delivered based on pre-amended versions of laws (including the Constitution itself), and have later been noticed to be *per incuriam*.<sup>3</sup> This is because the consolidated, as-amended versions of those laws may not have been easily available to the parties, their counsel and the Courts, which may have referred to an outdated version of the law.

Similarly, we noticed that even a Central Government notification has mistakenly referred to a provision of an Act which was deleted by a prior amendment.<sup>4</sup> This indicates that the issue at hand affects government administration (and in turn, citizens) as well.

This is in addition to the huge expenditure of time and energy which are currently deployed merely to arrive at the latest consolidated version of a law.

## **Authoritative versions of laws can only be published by the Government**

In accordance with the Allocation of Business Rules, 1961, framed under Article 77(3) of the Constitution of India, the compilation, publication and translation of Central Acts, Ordinances, Regulations, Rules, Orders, and other similar publications is the function of the Central Government. As mentioned above, while private publishers make legal research more convenient, they carry prominent disclaimers as to accuracy, leaving the lawyer/citizen

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<sup>3</sup> See e.g., *Birla Institute of Technology v. State of Jharkhand* (2019) 4 SCC 513, *Rohtas Bhankar v. Union of India* (2014) 3 SCC 122, and *Narayanappa v. Assistant Commissioner*, ILR 2017 Karnataka 485, all noting that earlier decisions did not take into consideration a relevant amendment; in one case, this was a Constitutional amendment.

<sup>4</sup> G.S.R. 538(E) dated 1st June, 2017, by the Ministry of Finance refers to Section 73(2)(h) of the Prevention of Money-Laundering Act, 2002, which clause was in fact deleted/omitted in 2013 by Act 2 of 2013 (S. 29). See <http://egazette.nic.in/WriteReadData/2017/176407.pdf> and [https://www.indiacode.nic.in/show-data?actid=AC\\_CEN\\_2\\_2\\_00035\\_200315\\_1517807326550&sectionId=25542&sectionno=73&orderno=77](https://www.indiacode.nic.in/show-data?actid=AC_CEN_2_2_00035_200315_1517807326550&sectionId=25542&sectionno=73&orderno=77).

unsure whether there has been an amendment to a relevant provision or any other error or omission.

The Hon'ble Supreme Court in *Swapnil Tripathi v. Union of India*, (2018) 10 SCC 629, held that as no person can be heard to plead ignorance of law, there is a corresponding obligation on the State to spread awareness about the law and the developments thereof, and that is well-settled that the right to know and receive information is a facet of Article 19(1)(a) of the Constitution.

Further, the Hon'ble High Court of Delhi and Hon'ble Central Information Commission have interpreted Section 4(1)(a) of the Right to Information Act, 2005 to impose a duty upon the Central Government to place the text of the law in the public domain.<sup>5</sup> The Hon'ble High Court of Delhi in the said matter has held that such an obligation is fair and reasonable, promotes the concept of rule of law, and that the Union of India should take the initiative to upload the latest amended bare Acts, since the public can be expected to follow the law only if law is easily accessible 'at the click of a button'.

The Hon'ble High Court of Bombay too has held in two judgments that the State Government of Maharashtra was obliged to make available authenticated copies of bare Acts, Rules, Regulations and other statutory instruments having the force of law to the public at large, and to publish updated copies of amended laws and subordinate legislations on the official State government websites.<sup>6</sup> The Hon'ble High Court of Bombay noted that if the updated versions of the State Acts and Rules are not made available, it would adversely affect the administration of justice and the common man would suffer.

There can be no gainsaying that the administration of justice and rule of law under the Constitution would be adversely affected if updated versions of laws are not made available for the perusal of the citizens, legal practitioners and the judiciary. Ignorance of law is no excuse, and hence, in line with the law stated above, we submit that a complete and authoritative publication of laws is a necessary constitutional imperative for the Government.

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<sup>5</sup> Order dated 24.05.2016 of the Hon'ble High Court of Delhi in W.P. (C) 4761/2016 (*Union of India v. Vansh Sharad Gupta*), upholding the Hon'ble Central Information Commission's order dated 04.11.2015.

<sup>6</sup> *Sanjeev M. Gorwadkar & Anr., v. State of Maharashtra & Ors.*, 1997 (2) Mh.L.J. 152, and *Mumbai Grahak Panchayat & Anr. v. State of Maharashtra & Ors.*, 2017 SCC OnLine Bom 726.

## **Global approach**

Other jurisdictions with similar legal systems e.g., the United Kingdom, Australia, New Zealand, Singapore, Hong Kong, and the United States have online resources where the as-amended versions of laws and subordinate legislations are easily available.<sup>7</sup> The World Justice Project Rule of Law Index 2020,<sup>8</sup> the world's leading source for original data on the rule of law, ranked India behind all these countries with respect to the "Open Government" factor.

We would like India to be at par with these countries which have online resources where the up-to-date, as-amended versions of laws and subordinate legislations are available to the general public. These websites (particularly, those of the U.K., Australia, and New Zealand) are worth studying because they contain all applicable laws, and incorporate the amendments into the original law. These are very comprehensive models and can act as an excellent idea for design for our purposes. The viewer is also able to see the version in force as of a particular date, which is particularly useful to know one's rights and duties as of a particular date in the past.<sup>9</sup>

## **Progress of India Code**

While we commend the effort made by the Government of India in maintaining the website 'India Code' and acknowledge the substantial efforts the Government of India is already making to digitize legal information, we have noticed certain shortcomings in the same which we wish to bring to your attention.

The Hon'ble High Court of Delhi took up this matter in Writ Petition (Civil) No. 4761 of 2016 (*Union of India v. Vansh Sharad Gupta*), which arose out of a Right to Information request by a law student seeking to have access to certain bare Acts. Prior to the proceedings before the High Court, the Hon'ble Central Information Commission had directed the Legislative Department to take steps to publish laws in an updated fashion online, and

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<sup>7</sup> United Kingdom ([legislation.gov.uk](http://legislation.gov.uk)), Australia ([legislation.gov.au](http://legislation.gov.au)), New Zealand ([www.legislation.govt.nz](http://www.legislation.govt.nz)), Singapore (<http://statutes.agc.gov.sg>), Hong Kong (<https://www.elegislation.gov.hk/>), and the United States (e.g., <https://ecfr.federalregister.gov/>, <http://leginfo.legislature.ca.gov/>).

<sup>8</sup> <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2020>

<sup>9</sup> E.g., [www.legislation.gov.uk/ukpga/2006/46/section/1224A](http://www.legislation.gov.uk/ukpga/2006/46/section/1224A)

observed that “*in the absence of access to law there would be no access to justice*”.<sup>10</sup> The High Court upheld this decision and proceeded to monitor the implementation of the same by the Union of India. In the order dated 8<sup>th</sup> September 2016 by the High Court, the Union of India statement is recorded to the effect that bare Acts would be available in searchable and PDF format from the year 1947 till date and would be available on the website by 31<sup>st</sup> December 2016. On 25<sup>th</sup> May 2017, the Amicus Curiae handed over a note and submitted that there were problems relating to searchability, updation, cross-linking, that the laws are not user-centric and mobile friendly and PDFs are not compatible and the website ignores basic rules of design. Certain suggestions had also been made. It was suggested that there should be a government portal on laws like that of the United Kingdom and Australia. These suggestions were recorded by the Court in the order dated 25<sup>th</sup> May 2017.

Importantly, by a further order dated 22<sup>nd</sup> September 2017, the High Court ordered as follows:

*“Today, officials from the Ministry of Law and NIC made a presentation of the New India Code web portal which is in development. After hearing the parties, the following elements are directed to be included in the new portal in the first phase:-*

- 1. All Central Acts and Subordinate Legislations passed by the Central Government including Rules, Regulations, Notifications and Circulars should be made available on this portal.*
- 2. The data uploaded on the portal should be available in machine readable PDF format.*
- 3. The navigation on this portal should enable visitors of the website to view a complete chain right from the parent Act to the subordinate Legislations passed by the Central Government under the parent Act.*
- 4. All Central Ministries, Departments, Statutory/Autonomous Bodies and other relevant competent authorities shall assign a Nodal Officer to deal with the creation and uploading of Legislative documents onto the portal created by NIC.*
- 5. All such Nodal Officers shall create and upload this data in a standardized format. This format shall be in machine readable PDFs and hyperlink friendly.*
- 6. The portal created by NIC shall enable uploading of aforementioned data by all such Nodal Officers.*

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<sup>10</sup> [https://ciconline.nic.in/rti/docs/cic\\_decisions/CIC\\_SS\\_C\\_2013\\_900008-SA\\_M\\_168160.pdf](https://ciconline.nic.in/rti/docs/cic_decisions/CIC_SS_C_2013_900008-SA_M_168160.pdf)

- 7. All such Nodal Officers shall upload this Data along with metadata as required.*
  - 8. This portal shall also enable hyperlinking between Acts, Rules, Regulations and other subordinate Legislations as necessary.*
  - 9. This portal shall also enable uploading of Legislative documents including Acts, Rules, Regulations and subordinate Legislations by State Governments and relevant authorities under them.*
  - 10. This portal shall be mobile friendly.*
- It is further directed that a Nodal Agency/Committee shall be created by the Cabinet Secretariat to coordinate the implementation of the above directions.”*

Thereafter, the Union of India appears to have been updating the Hon’ble Court of its progress from time to time by filing status reports.

It appears that the matter has been pursued before the Court which, in our view, must be further pursued by the Government on its own to address the shortcomings and implement the solutions pointed out below, because it is the Government which should ensure that all laws are freely and effectively accessible in an age of modern technology. Since the matter is non-adversarial, we are of the opinion that your effective intervention in the matter may be of great assistance to all concerned. Further, the suggestions in this letter go beyond India Code and the issues so far raised in the said matter.

### **Shortcomings of India Code**

Despite the steps taken by the Government of India further to the directions of the Hon’ble High Court of Delhi, the India Code portal has two important shortcomings which require to be addressed:

- (1) Disclaimer: There is a disclaimer against the correctness and authenticity of the contents, which actually leads citizens into a state of confusion; even Courts would not be able to immediately verify the correctness of the contents if referring to the website; and
- (2) Errors and omissions: Errors and omissions of content affect public trust in the portal and can lead to a mistaken conception of the legal position.

## (1) Disclaimer

In light of the law stated above, we submit that any official web portal which makes available the laws by the Government can never have a disclaimer such as this:

*“...Material provided on the site is provided “as is”, without warranty of any kind, either express or implied, including, without limitation, warranty of fitness for a particular purpose. Legislative Department specifically does not make any warranties or representations as to the accuracy, completeness or adequacy of any such material or the same being up to date....*

*Under no circumstances shall the Legislative Department for Updating and Uploading of Central Acts or concerned Ministries/Departments for updating and uploading of Subordinate Legislations are liable for any loss, damage, liability or expense incurred or suffered that is claimed to have resulted from the use of this Site, including, without limitation, any fault, virus, error, omission, interruption or delay with respect thereto. The use of this Site is at the User's sole risk. The User specifically acknowledges and agrees that the Legislative Department or concerned Ministries/Departments are not liable for any conduct of any User...”*

With both private publishers and the official Government website carrying such disclaimers, the citizen – and even the lawyer – is really left in a quandary as to how to verify the law, since none of the existing resources are authoritative.

## (2) Errors and omissions

We would like to inform as an illustration of the errors and omissions on the India Code portal that certain laws such as the Central Excise Act, 1944,<sup>11</sup> the Indian Telegraph Rules, 1951, and several rules, regulations, notifications and circulars (and amendments to the same) under the Consumer Protection Act, 2019, Drugs and Cosmetics Act, 1940, Foreign Exchange Management Act, 1999, Food Safety and Standards Act, 2006, Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933, and Legal Metrology Act, 2009, among other laws, are not available on the portal. Further, the numerous COVID-19-related guidelines, orders, other subordinate legislation and frequent amendments to the same, which

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<sup>11</sup> The said Act continues to be partly in force even after the passage of the Central Goods and Services Tax Act, 2017.

are essential to daily life in India today, under the Disaster Management Act, 2005, have not been uploaded on the portal.

Importantly, as regards subordinate legislation, the primary rules/regulations are being published separately from the amendments (which may run into hundreds), leaving the reader the mammoth task of having to manually consolidate the same to arrive at the latest legal position. For instance, it appears that the Passports Rules, 1980, which affect the ordinary citizen seeking to travel abroad, have been amended 68 times to date, and have not been published in consolidated form reflecting the amendments. Further, many of these materials have been uploaded in scanned form and are not clearly legible.<sup>12</sup>

Since subordinate legislations often contain the practical do's and don'ts of legal compliance, it is imperative that all such subordinate legislations are available on the India Code portal. Further, it is an unreasonable burden cast upon the citizen to manually piece together all the amendments, particularly since some of the regulations, especially those which are frequently amended or highly sector-specific, cannot be reliably sourced in an up-to-date and consolidated form even from private publishers.

The foregoing is a non-exhaustive set of our observations and there may be many more such errors and omissions. Under these circumstances, we would like you to seriously consider that this is a matter of considerable importance.

## **Proposed Solutions**

We have analyzed possible solutions to the difficulty noted above, and would like to propose the following solutions, which are made with a practical perspective:

### **(1) Removal of disclaimers and correction of errors on the India Code portal**

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<sup>12</sup> E.g., notifications under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, available at [https://upload.indiacode.nic.in/showfile?actid=AC\\_CEN\\_10\\_10\\_00002\\_197680\\_1517807318455&type=notification&filename=Description%20of%20the%20area%20of%20sea%20of%20limits%20of%20historic%20waters%20of%20India%20Jan%2015,%201977.pdf](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_10_10_00002_197680_1517807318455&type=notification&filename=Description%20of%20the%20area%20of%20sea%20of%20limits%20of%20historic%20waters%20of%20India%20Jan%2015,%201977.pdf), and [https://upload.indiacode.nic.in/showfile?actid=AC\\_CEN\\_10\\_10\\_00002\\_197680\\_1517807318455&type=notification&filename=Notification%20regarding%20Maritime%20Boundary%20Agreement%20between%20India%20and%20other%20States.pdf](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_10_10_00002_197680_1517807318455&type=notification&filename=Notification%20regarding%20Maritime%20Boundary%20Agreement%20between%20India%20and%20other%20States.pdf); see also the notification of the Credit Information Companies Rules, 2006 (see page 36), available at [https://upload.indiacode.nic.in/showfile?actid=AC\\_CEN\\_2\\_11\\_00003\\_200530\\_1517807317795&type=notification&filename=credit\\_information\\_comp\\_anies\\_act\\_rules\\_and\\_regulation\\_notification\\_dated\\_14.12.2006\\_.pdf](https://upload.indiacode.nic.in/showfile?actid=AC_CEN_2_11_00003_200530_1517807317795&type=notification&filename=credit_information_comp_anies_act_rules_and_regulation_notification_dated_14.12.2006_.pdf).



The removal of disclaimers and correction of errors and omissions on the India Code portal would, for the reasons stated above, increase public awareness of the laws, reduce errors in the administration of justice, and save the excessive time and energy currently spent to ascertain the latest version of a law. There must also be a protocol for time-bound uploading of legal text on India Code, as and when introduced or amended (which could form part of the policy suggested below). Even many of the pre-1947 legislations which govern the space of the Indian rule of law must be updated with amendments. If more time and resources are devoted to India Code, we have no doubt that this can be achieved, and we are willing to render all necessary assistance in this regard.

## (2) Policy for publication of laws and subordinate legislation

We submit that the Central Government should introduce a policy containing the following instructions to all departments: (i) all legislation and legally binding subordinate legislation (including orders, circulars, etc.) must be published in the Official Gazette and not merely uploaded on the departmental website, so that the public is made adequately aware of all changes to law by referring to a single source; (ii) whenever any amendment is introduced, the consolidated, as-amended version of the law should be annexed to the amendment, *and* India Code should be updated with the as-amended version in a timely manner, so that the public is made aware of the consolidated and updated law as of date; and (iii) as soon as a particular version of a law on a department's website becomes out of date, it should be taken down or appropriately dated so that the public is not misled.

As regards (ii) above, it may be communicated to the ***Department of Publication, Ministry of Housing and Urban Affairs*** (a carbon copy of this letter is marked accordingly), which is in charge of the publication of the Gazette of India (e-Gazette), that a requirement can be introduced to the effect that all submissions of amendments by the various government departments to the Gazette of India ([egazette.nic.in/](http://egazette.nic.in/)) must contain, as an annexure or hyperlink, the consolidated version of the relevant Act or subordinate legislation. Just as digital signatures are a requirement for submission on the e-Gazette website by the relevant government department, this requirement to enclose or link to the consolidated version can be included by the Department of Publication under the "Procedure to be followed by

Ministries/Departments/Statutory Bodies etc.” mentioned in the relevant Office Memorandum,<sup>13</sup> as well as in the e-Gazette website instructions.

This in our view is a practical and immediately feasible solution to remedy the current difficulty, going forward. It ensures that the public is made aware of the complete and updated law as of date and does not have to refer back individually to tens or hundreds of amendments.

The requirement can be stated as follows:

*“All notifications to be published in the Gazette of India which contain amendments to Acts, Rules, Regulations, prior notifications, orders, circulars, or other binding laws should include an Annexure or working hyperlink containing the consolidated, as-amended version(s) of the relevant law (i.e., edited to reflect the latest amendment). Amendment notifications failing to enclose or link to such consolidated, as-amended version will not be considered for publication.*

*Illustration: If the Income Tax Rules, 1962 are being amended vide the Income Tax (\_\_\_ Amendment) Rules, the notification containing the Amendment Rules should enclose as an Annexure - or provide a working hyperlink to - the entire amended and consolidated Income Tax Rules, edited to reflect the latest amendment.”*

Through this requirement, the burden of providing consolidated laws is decentralized among all departments, and each amendment hence becomes a definitive resource as to a particular law / subordinate legislation. As stated above, an advisory to the same effect may be issued to the State Governments’ gazette publications (Departments of Printing).

### (3) Periodic updates

As already stated above, the pace of legal changes is exceptionally high and it is nearly impossible for the legal fraternity and citizens to reliably and timely stay abreast of all the

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<sup>13</sup> Since there is no Act governing Gazette publication, the rules for submission are contained in an Office Memorandum of the Ministry of Urban Development (as it then was) (e.g., No. O-17022/1/2015-PSP-I dated 30<sup>th</sup> September 2015 (<http://www.egazette.nic.in/ePublish-Notification.pdf>)) and instructions on the E-Gazette website ([egazette.nic.in/\(S\(tuxgp2zt10y2h4m4pd3khqru\)\)/WriteReadData/SystemDocuments/Guide-SubmittingContent.pdf](http://egazette.nic.in/(S(tuxgp2zt10y2h4m4pd3khqru))/WriteReadData/SystemDocuments/Guide-SubmittingContent.pdf)).

latest legal changes which impact them; the same is currently done on an *ad hoc* basis through news sources and other third parties. This is not an ideal situation as even a day's delay of knowledge of the law can adversely impact a citizen in some cases.

When the Gazette of India was published in printed form (prior to 2015), it was open to interested members of the public to subscribe to it. Since it has been digitized, while digitization has brought great benefits, there is no subscription facility for periodic updates, and hence lawyers and interested members of the public have to check the website manually as and when time permits, which may result in some updates being missed. Since the Gazette material is now online, such subscription can be made freely and widely available.

Hence, the India Code portal and the E-Gazette portal should have a facility where interested members of the public can request daily, weekly or monthly updates on Central laws on a subject-wise or Ministry-wise basis, by email, SMS, Whatsapp etc. An advisory should be issued to the State governments to the same effect as regards State laws. Such a facility is already adopted by courts around the country to give advocates updates about the daily causelist. Advocates and citizens would similarly benefit by knowing the daily changes to the law.

(4) A global standard such as 'Akoma Ntoso' may be adopted for the publication of laws

Another suggestion which we are urging for your consideration is for India Code to adopt a U.N.-accepted standard like 'Akoma Ntoso' (an open source global standard) or any other comparable standard for Indian laws.<sup>14</sup> For instance, the U.K. government legal portal has adopted this standard.<sup>15</sup> This should be adopted for laws and subordinate legislation at the Central, State and municipal levels. This will enable many advantages which come with technology standardisation, including ease of cross-referencing, interoperability, and viewing the version of a legislation in force as of a particular date.<sup>16</sup>

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<sup>14</sup> <http://www.akomantoso.org/>

<sup>15</sup> <https://www.legislation.gov.uk/projects/drafting-tool>

<sup>16</sup> [http://www.akomantoso.org/?page\\_id=39](http://www.akomantoso.org/?page_id=39)

The feature of viewing the legislating in force as of a particular date is of particular importance to practitioners since the cause of action they are dealing with would have often arisen in the past, prior to amendments of the relevant law. A ‘360 degree’ view of any Act or subordinate legislation is hence required, whereby the relevant Bill, originally enacted text, and any amendments are all available to view, and the text in force as of *any particular date* can easily be viewed. This has already been implemented by some jurisdictions such as the U.K and the U.S.A.<sup>17</sup>

### **A suitable time for reform and a necessity for Digital India**

Present circumstances make this the ideal time for the introduction of these policy changes. For several hundred years, since the original institution of the Gazette of India, it was distributed in physical form. Therefore, it may not have been practical to enclose the entire consolidated version along with every amendment. However, since 2015, the Gazette of India is no longer distributed physically and is only electronic. Therefore, it is feasible to publish the entire consolidated version by merely editing the relevant words in the original document, and enclosing and uploading it (or a hyperlink to it) along with the amendment.

Similarly, the policy suggested above containing instructions to all departments can be easily complied with today given that legal information and communications today are electronically stored and disseminated.

As mentioned earlier, the pace of amendments and notifications is exceptionally high today, and the pace of lawmaking has approximately tripled over the past 20 years. Further, the restrictions on physical movement in the current COVID-19 situation and the increasing reliance of our world on technology make such reform all the more urgent.

The ‘Digital India’ mission and the vision of a rule of law society will not be complete without laws being easily and reliably accessible online. It would also greatly promote the ease of doing business for the law to be easily accessible. In addition, with virtual Court hearings becoming a phenomenon here to stay, reliable, up-to-date, and as-amended laws become a must for the reference of counsel and Courts.

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<sup>17</sup> <https://www.legislation.gov.uk/ukpga/2006/46/introduction/2018-01-01>, <https://ecfr.federalregister.gov/reader-aids/using-ecfr>

We request you also to urge all State Governments to follow suit so that governance under the Constitution is effected as contemplated by the Constitution, namely, by the “...*Laws in force*...”, which are made freely, widely and reliably available.

### **Summary**

To summarise, our suggestions for actions which your good office may implement are as follows:

- a. The Central Government should introduce a policy containing the following instructions:
  - i. All legislation and legally binding subordinate legislation (including orders, circulars, etc.) must be published in the Official Gazette and not merely uploaded on the departmental website, so that the public is made adequately aware of all changes to law by referring to a single source;
  - ii. Whenever any amendment is introduced, the consolidated, as-amended version of the law should be annexed to the amendment and India Code should be updated with the as-amended version in a timely manner, so that the public is made aware of the consolidated and updated law as of date; and,
  - iii. As soon as a particular version of a law on a department’s website becomes out of date, it should be taken down or appropriately dated so that the public is not misled.
- b. An advisory should be issued to the State governments to the same effect.
- c. The India Code portal and the E-Gazette portal should have a facility where interested members of the public can request daily, weekly or monthly updates on Central laws on a subject-wise or Ministry-wise basis, by email, SMS, Whatsapp etc. An advisory should be issued to the State governments to the same effect as regards State laws.
- d. The disclaimers on the India Code portal must be removed so that the portal becomes a reliable and authentic source of information.
- e. The errors and omissions on the India Code portal should be corrected. A communication should be sent to all Central and State government departments to provide updated material to the portal on a real-time basis, and ensure that the information is always up-to-date.

- f. The Ministry may consider adopting the U.N.-approved ‘Akoma Ntoso’ standard or any other comparable standard for the publication of laws on India Code. A ‘360 degree’ view of any Act or subordinate legislation should be implemented, whereby the text in force as of any particular date can easily be viewed, since practitioners often have to refer to the law as it stood in the past.

*Full list of signatories follows.*

### **Full List of Signatories**

The letter has been drafted and prepared by Mr. Jaideep Reddy, Advocate, Nishith Desai Associates, and has been endorsed by:

The Bar Association of India (est. 1960), a voluntary body representing the All India Bar  
Delhi High Court Bar Association, a voluntary body representing the Delhi High Court Bar  
Society of Indian Law Firms, the apex body of law firms in India

Student Bar Association, National Law School of India University, Bengaluru

Student Juridical Association, The West Bengal National University of Juridical Sciences,  
Kolkata

Dr. Sridhar Acharyulu, *Former Commissioner, Central Information Commission; Acting  
Dean, School of Law, Bennett University, Greater Noida*

Dr. Lalit Bhasin, *President, Bar Association of India; President, Society of Indian Law Firms;  
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Mr. Javedur Rahman, *Advocate-on-Record, Supreme Court of India*

Mr. Sai Vinod, *Advocate-on-Record, Supreme Court of India*

Mr. Carl Malamud, *President, Public Resource*

Dr. Sushant Sinha, *Founder, IndianKanoon*

Mr. Devansh Jain, *Software Engineer*

Ms. Sreerupa Chowdhury, *Entrepreneur*

Mr. Aasish Somasi, *Advocate*

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Mr. Aditya Chatterjee, *Advocate*

Ms. Adreeka Pandey, *Advocate*

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